

**From:** Jonathan Mitchell [jonathan@mitchell.law](mailto:jonathan@mitchell.law)  
**Subject:** Re: response to motion to extend discovery deadline  
**Date:** April 3, 2023 at 2:49 PM  
**To:** Ellis Herington [herington@braunhagey.com](mailto:herington@braunhagey.com)  
**Cc:** Dwain K. Rogers [drogers@co.llano.tx.us](mailto:drogers@co.llano.tx.us), Matt Rienstra [matt.rienstra@co.llano.tx.us](mailto:matt.rienstra@co.llano.tx.us), Ellen Leonida [Leonida@braunhagey.com](mailto:Leonida@braunhagey.com), Andrew Levine [levine@braunhagey.com](mailto:levine@braunhagey.com), Kayna Levy [kayna@wittliffcutter.com](mailto:kayna@wittliffcutter.com), Max Bernstein [bernstein@braunhagey.com](mailto:bernstein@braunhagey.com), Shannon Morrissey [Morrissey@braunhagey.com](mailto:Morrissey@braunhagey.com), Katherine Chiarello [katherine@wittliffcutter.com](mailto:katherine@wittliffcutter.com), Ryan Botkin [ryan@wittliffcutter.com](mailto:ryan@wittliffcutter.com), Maria Calaf [mac@wittliffcutter.com](mailto:mac@wittliffcutter.com)

Ellis:

I will not agree to commit legal malpractice in exchange for your non-opposition to a request to extend a briefing deadline.

I am, however, willing to make any concession needed to avoid prejudicing your clients from our proposed extension of the briefing deadline. I believe that I avoided any possibility of prejudice by promising to agree to an additional one week of fact discovery if your motion to extend the discovery deadline is granted.

If that offer is not sufficient to avoid prejudice to your clients, please explain what else would be needed. Otherwise, this is something that you should agree to as a matter of basic professional courtesy.

—Jonathan

On Apr 3, 2023, at 4:13 PM, Ellis Herington <[herington@braunhagey.com](mailto:herington@braunhagey.com)> wrote:

Jonathan,

Plaintiffs cannot consent to any extension of this deadline unless Defendants will agree not to move to stay proceedings in the district court during the pendency of your appeal.

Best,  
Ellis

Ellis E. Herington

BRAUNHAGEY & BORDEN LLP

Direct: (415) 491-7025 ext. 185

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**From:** Jonathan Mitchell <[jonathan@mitchell.law](mailto:jonathan@mitchell.law)>

**Sent:** Sunday, April 2, 2023 1:16 AM

**To:** Ellis Herington <[herington@braunhagey.com](mailto:herington@braunhagey.com)>; Dwain K. Rogers <[drogers@co.llano.tx.us](mailto:drogers@co.llano.tx.us)>; Matt Rienstra <[matt.rienstra@co.llano.tx.us](mailto:matt.rienstra@co.llano.tx.us)>; Ellen Leonida <[Leonida@braunhagey.com](mailto:Leonida@braunhagey.com)>; Andrew Levine <[levine@braunhagey.com](mailto:levine@braunhagey.com)>; Kayna Levy <[kayna@wittliffcutter.com](mailto:kayna@wittliffcutter.com)>; Max Bernstein <[bernstein@braunhagey.com](mailto:bernstein@braunhagey.com)>; Shannon Morrissey <[Morrissey@braunhagey.com](mailto:Morrissey@braunhagey.com)>; Katherine Chiarello <[katherine@wittliffcutter.com](mailto:katherine@wittliffcutter.com)>; Ryan Botkin <[ryan@wittliffcutter.com](mailto:ryan@wittliffcutter.com)>; Maria Calaf <[mac@wittliffcutter.com](mailto:mac@wittliffcutter.com)>

**Subject:** response to motion to extend discovery deadline

\*\*\* EXTERNAL MESSAGE \*\*\*

Counsel:

Our response to your motion to extend the discovery deadline is currently due on April

Our response to your motion to extend the discovery deadline is currently due on April 7. Would you be willing to consent to a 7-day extension of our deadline to respond? I have a lot on my plate this week (including an oral argument in the Fifth Circuit and several briefing deadlines), and I also have two briefs due on April 10.

If you want to extend your requested discovery deadline by an additional week to accommodate this request, we would not object to that.

Thanks for considering this.

—Jonathan

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